

REMARKS

Office action summary

Claims 40-46, 48-54, and 56-62 are pending in the present application. Claims 56-61 are presently amended. No claims are added or canceled. In the office action of December 16, 2009, the following objection, rejections, and allowances were made:

- The specification was objected to for failing to provide antecedent basis for the claimed subject matter.
- Claims 56-61 were rejected under 35 USC § 101 as being directed to non-statutory subject matter.
- Claims 40-46 and 48-54 were allowed.

The amendments and rejections are discussed below. The examiner is respectfully urged to reconsider the application and withdraw the objection and rejections. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call applicants' undersigned attorney, Jon M. Isaacson, at **206-332-1102**.

Telephonic interview

On January 20, 2010, applicants' undersigned attorney and Examiner Bruckart conducted a telephonic interview. Applicants' undersigned attorney would like to thank the examiner for granting the interview. During the interview, the examiner agreed that the proposed claim amendments would overcome the objection to the specification and the rejections under 35 USC § 101. Any further substance of the interview is incorporated into the remarks below.

Objections to the specification

The specification was objected to for failing to provide antecedent basis for the claimed subject matter. More specifically, the Office Action found that the specification did not provide antecedent basis for the term "tangible," as used in the recitation of "tangible computer readable medium" in claims 56-61. Without conceding the propriety of the

rejection, applicants presently amend claims 56-61 to remove the word “tangible.” Accordingly, applicants respectfully request withdrawal of the objection to the specification.

Rejections under 35 USC § 101

Claims 56-61 were rejected under 35 USC § 101 as being directed to non-statutory subject matter. The Office Action found that the broadest reasonable interpretation of a “tangible computer readable medium” encompassed non-statutory subject matter such as a carrier wave. (Office Action, pages 2-4.) The Office Action recommended using the word “non-transitory” instead of “tangible” to overcome the rejection under 35 USC § 101. (*Id.* at page 4.) Applicants respectfully disagree with the interpretation of the claims in the Office Action, and applicants believe that a “tangible computer readable medium” is equally as allowable as the term “non-transitory computer readable medium.” However, without conceding the propriety of the rejection of claims 56-61, solely in an effort to advance prosecution of the present application, applicants presently amend claims 56-61 to each be directed to a “non-transitory computer readable medium.” Applicants respectfully submit that claims 56-61 are directed to statutory subject matter, and applicants request withdrawal of the rejection of claims 56-61 under 35 USC § 101.

Conclusion

Applicants believe that the present remarks are responsive to each of the points raised by the examiner in the Office Action, and submit that claims 40-46, 48-54, and 56-62 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the examiner’s earliest convenience is earnestly solicited.

DOCKET NO.: **BA-0330
Application No.: 09/870,538
Office Action Dated: December 16, 2009

PATENT

Date: February 16, 2010

/Jon M. Isaacson/
Jon M. Isaacson
Registration No. 60,436

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439